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## VIA ECF

Hon. LaShann DeArcy Hall, EDNY District Judge  
225 Cadman Plaza East, Brooklyn, NY 11201, Courtroom: 4H North

Re: Krawitz, et al., v. Five Below, Inc., Civil Action No.: 2:22-cv-02253-LDH-ARL

Dear Judge DeArcy Hall,

We represent Defendant Five Below, Inc. (“Five Below”) in the above-referenced matter. We write pursuant to Rule III.C.2. of Your Honor’s Individual Practices to respectfully request a five-page extension of the page limitation for Five Below’s memorandum of law in support of its forthcoming Motion to Dismiss or Strike Plaintiffs Spencer Krawitz’s and Cassandra Rodriguez’s First Amended Class Action Complaint (Dkt. 13). Pursuant to Your Honor’s Individual Practices, the page limit for any civil memorandum of law in support of a motion is twenty-five pages. *See* Rule III.C.1. Five Below respectfully requests a five-page extension of Your Honor’s page limit (for a total of thirty pages) to allow for complete briefing of all legal issues.

Good cause exists for Five Below’s request. This is a large and complex putative class action. Plaintiffs contend that Five Below violated the NYLL’s pay frequency provision and ask the Court to award them substantial, unconstitutional penalties equal to 100% of each class members’ allegedly late wages for a six year period. Based on Plaintiffs’ allegations alone, the putative class exceeds 100 people and could encompass all individuals employed by Five Below in New York State for the last six years who “earned nine hundred dollars a week or less and/or did not have the authority to hire or fire other employees.” (Compl. ¶ 13.) Plaintiffs’ damages are pled in excess of \$5 million, exclusive of interest and costs. *Id.*, ¶ 8. Thus, the size of the case and potential magnitude of alleged exposure justify a modest extension of the Court’s page limits.

The complexity of legal issues likewise warrant an extension of the Court’s page limits. Five Below’s forthcoming Motion to Dismiss or Strike raises crucial issues related to Plaintiffs’ Article III standing and the Court’s jurisdiction to hear their claim. It also challenges a novel (and erroneous) interpretation of the NYLL that contravenes 100-plus years of legislative and statutory history. While Five Below intends to be as succinct as possible in its forthcoming motion, it requires additional pages to fully and properly brief the complex legal issues involved and present a robust picture of the extensive history surrounding the applicable statute.

Given the importance of the issues and the magnitude of the claim, Five Below respectfully requests that the Court grant it permission to file a memorandum of law totaling thirty pages.

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Hon. LaShann DeArcy Hall, District Judge

We thank the Court for its consideration of this request.

Respectfully submitted,

/s/ Lincoln O. Bisbee

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c: All counsel of record (via ECF)